



LEROY D. BACA, SHERIFF

**County of Los Angeles**  
**Sheriff's Department Headquarters**  
 4700 Ramona Boulevard  
 Monterey Park, California 91754-2169

*A Tradition of Service*



**ADOPTED**

BOARD OF SUPERVISORS  
 COUNTY OF LOS ANGELES

August 03, 2010

The Honorable Board of Supervisors  
 County of Los Angeles  
 383 Kenneth Hahn Hall of Administration  
 500 West Temple Street  
 Los Angeles, California 90012

38 August 3, 2010

*Sachi A. Hamai*  
 SACHI A. HAMAI  
 EXECUTIVE OFFICER

Dear Supervisors:

**APPROVE MODIFICATION NUMBER TWO TO AGREEMENT NUMBER 64794 WITH HACIENDA  
 LA PUENTE UNIFIED SCHOOL DISTRICT FOR ADULT EDUCATION IN LOS ANGELES  
 COUNTY SHERIFF'S DEPARTMENT'S FACILITIES  
 (ALL DISTRICTS) (3 VOTES)**

**SUBJECT**

The Los Angeles County Sheriff's Department (Department) is seeking your Board's approval to amend Agreement Number 64794 (Agreement) for adult education in the Department's custody facilities with Hacienda La Puente Unified School District (HLPUSD). Modification Number Two (Modification) provides increased indemnification and defense for HLPUSD, increases administrative fees, modifies the termination provision, and adds language that authorizes HLPUSD's use of subcontractors in the performance of the Agreement.

**IT IS RECOMMENDED THAT YOUR BOARD:**

Approve and instruct the Chair of the Board to sign the attached Modification to the Agreement with HLPUSD to increase the days required for notice of termination, to modify the indemnification obligation of Los Angeles County (County), to increase the administrative fees paid to HLPUSD, and to add subcontracting language to permit HLPUSD to utilize subcontractors with the approval of the Department.

**PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION**

Approval of the Modification will provide HLPUSD indemnification and defense by the Department in the event HLPUSD is sued for failure to provide education services not required under the current Agreement or by law, inclusive of any litigation currently pending against HLPUSD. Additionally, approval of the Modification will increase the days required for notice of termination, increase the

administrative fees paid to HLPUSD, and add subcontracting language to permit HLPUSD to utilize subcontractors with the approval of the Department. This will also ensure uninterrupted academic and vocational services are afforded and current Average Daily Attendance (ADA) reimbursement levels are not adversely affected.

HLPUSD and the Department were each recently parties named in a lawsuit that alleged special education services should be afforded to those in custody between the ages of 18 and 22, who have an Individual Education Plan and desire such services. The action alleged that HLPUSD was responsible, in part, to provide these specialty services, in spite of this being outside the scope of the Agreement. HLPUSD asserts the defense of this and other similar lawsuits has and will continue to subject them to undue financial burden.

The Department indirectly receives annual reimbursement from the State of California due to reported ADA through the school district. The current level of reimbursement is tied to thousands of ADA units that are generated annually and has grown incrementally in keeping with statutory allowance since execution of the Agreement. ADA is presently tied to the school district and reimbursement growth the Department has acquired through a longstanding relationship. ADA reimbursement would be drastically reduced to introductory levels if the Agreement was terminated.

### **Implementation of Strategic Plan Goals**

The services provided under this Agreement support the County's Strategic Plan, Goal 1, Operational Effectiveness. The Modification will allow inmates in the Department's custody facilities to continue to have access to educational services, which is in keeping with the Department's Education-Based Incarceration Plan.

### **FISCAL IMPACT/FINANCING**

The cost of the Agreement is financed through the Inmate Welfare Fund (IWF). A substantial portion of this cost is recouped and returned to the IWF through ADA reimbursement from the State. Pursuant to the Modification, the Department shall pay an increased administrative fee of 15 percent of the budgeted costs set forth in the approved Annual Joint Operating Plan (Plan).

### **FACTS AND PROVISIONS/LEGAL REQUIREMENTS**

On April 30, 1991, the County entered into the Agreement with HLPUSD to provide adult education services in the Department's custody facilities, pursuant to Title 15 requirements relating to education programs in jail facilities. The Agreement continues indefinitely until terminated by either party.

The Modification provides that either party may terminate the Agreement for any reason whatsoever with 90-day advance written notice. Due to the scope and complexity of the services provided, the 30-day termination notice currently provided for in the Agreement is insufficient to find and acquire a replacement contractor to provide the required services.

The Agreement currently provides for mutual indemnification. The Modification increases the County's obligations and requires indemnification and defense of HLPUSD by the County in the event HLPUSD is sued for failure to provide education services not required under the current Agreement or by law, inclusive of any litigation currently pending against HLPUSD.

The Modification increases the administrative fees paid under the Agreement from 8 percent to 15 percent of the budgeted costs set forth in the approved Plan.

Services provided by HLPUSD include academic and vocational programs. The Modification adds subcontracting language to permit HLPUSD to utilize subcontractors in the performance of the services with the prior written approval of the Department.

HLPUSD is in compliance with all Board and Chief Executive Office requirements.

County Counsel has reviewed and approved the Modification as to form.

Except as expressly provided in the Modification, all other provisions and conditions of the Agreement will remain the same and in full force and effect.

#### **IMPACT ON CURRENT SERVICES (OR PROJECTS)**

Approval of this action will ensure uninterrupted educational services for inmates who are being held in the Department's custody facilities.

#### **CONCLUSION**

Upon approval by your Board, please return two adopted copies of this Board letter and three original executed copies of the Modification to the Department's Contracts Unit.

Sincerely,



LEROY D. BACA  
Sheriff

LDB:MW:mw

Enclosures

**MODIFICATION NUMBER TWO TO AGREEMENT NO. 64794  
BY AND BETWEEN  
COUNTY OF LOS ANGELES AND  
HACIENDA LA PUENTE UNIFIED SCHOOL DISTRICT  
FOR ADULT EDUCATION IN LOS ANGELES COUNTY SHERIFF'S FACILITIES**

This Modification Number Two is entered into by and between the County of Los Angeles (hereinafter "County" or "Sheriff") and Hacienda La Puente Unified School District (hereinafter "District"), effective upon execution by all parties.

- A. WHEREAS, on April 30, 1991, County entered into County Agreement Number 64794 (hereinafter "Agreement") with District for the provision of Adult Education in Los Angeles County Sheriff's Facilities; and
- B. WHEREAS, on May 14, 1999, the parties entered into Modification Number One to the Agreement; and
- C. WHEREAS, the parties have been named in litigation whereby it is alleged that the parties failed to provide special education services to inmates (services not required to be provided by District under the Agreement), and District has incurred substantial litigation costs in its defense; and
- D. WHEREAS, the parties agree to amend the Agreement to modify the notice provisions related to termination of the Agreement, to increase the percentage of administrative costs recoverable by District, to modify the indemnification obligations of the parties related to claims by third parties for failure to provide education services, other than those education services required to be provided by District under the Agreement or any other provision of law, and to allow District to subcontract for services with the express written consent of County.

NOW THEREFORE, in consideration of the mutual covenants contained herein, and for good and valuable consideration, County and District agree to amend the Agreement as follows:

- 1. Paragraph 1, Term of Agreement, shall be deleted in its entirety and replaced as follows to increase the days required for notice of termination:
  - 1. Term of Agreement. The term of this Agreement shall be from the date of execution until terminated by either party for any reason whatsoever, upon ninety (90) days advance written notice of termination from one party to the other party.

2. Paragraph 3, Payment, first paragraph only, shall be deleted in its entirety and replaced as follows to increase the percentage of administrative costs recoverable by District. Subparagraphs (a) through (e) of Paragraph 3, Payment, shall remain the same and in full force and effect.
3. Payment. The SHERIFF shall reimburse the DISTRICT for the costs of all services, articles, and supplies set forth in subparagraphs (a) and (b) below, which are furnished to the SHERIFF pursuant to the terms of this Agreement, in accordance with the approved Annual Joint Operating Plan. In addition, the SHERIFF shall pay the DISTRICT an administrative fee of fifteen percent (15%) of the budgeted costs set forth in the approved Annual Joint Operating Plan.
3. Paragraph 15, Liability, shall be deleted in its entirety and replaced as follows to modify the indemnification obligations of the parties:

15. Liability.

- (a) The DISTRICT agrees to defend, indemnify, and hold harmless the COUNTY, the SHERIFF, its officers, employees, and agents from every claim or demand of any kind which may be made by reason of the actions or omissions of the DISTRICT, DISTRICT'S officers, employees, agents, or subcontractors in connection with the performance of this Agreement.
- (b) The COUNTY and/or SHERIFF agrees to defend, indemnify, and hold harmless the DISTRICT, its officers, employees, and agents from every claim or demand which may be made by reason of the actions or omissions of the SHERIFF, SHERIFF'S officers, employees and agents in connection with the performance of this Agreement.
- (c) In addition, the COUNTY and/or SHERIFF agrees to indemnify, defend, and hold harmless the DISTRICT, its officers, employees, and agents from and against any and all liability, including but not limited to demands, claims, actions, fees, costs, and expenses (including reasonable attorney's fees and expert witness fees), in all instances where the DISTRICT is sued by a third party and it is alleged that the DISTRICT has failed to provide education services to inmates, other than those education services contracted to be provided by DISTRICT to inmates under this Agreement or required to be provided to inmates by DISTRICT under any provision of law. This obligation is inclusive of any litigation currently pending against DISTRICT, including but not limited to United States District Court Case Number CV 09-08943.

- (d) It is intent of this Agreement that the obligation to defend, set forth in Subparagraphs (a) through (c) above, shall be initiated immediately upon the tender of any claim.

4. Paragraph 19, Subcontracting, shall be added to the Agreement as follows:

- 19. Subcontracting. The DISTRICT shall not subcontract the work to be performed pursuant to this Agreement without prior written approval of the SHERIFF. The names and qualifications of subcontractors or others whom District intends to employ, other than those identified, shall be submitted to the SHERIFF for prior written approval, which shall not be unreasonably withheld.
- 5. The DISTRICT represents and warrants that the person executing this Modification Number Two for the DISTRICT is an authorized agent who has actual authority to bind the DISTRICT to each and every term, condition, and obligation of this Modification Number Two and that all requirements of the DISTRICT have been fulfilled to provide such actual authority.
- 6. The COUNTY represents and warrants that the person executing this Modification Number Two for the COUNTY is an authorized agent who has actual authority to bind the COUNTY to each and every term, condition, and obligation of this Modification Number Two and that all requirements of the COUNTY have been fulfilled to provide such actual authority.
- 7. Except as expressly provided in this Modification Number Two, the Agreement shall remain unchanged and in full force and effect.



MODIFICATION NUMBER TWO TO AGREEMENT NO. 64794  
BY AND BETWEEN  
COUNTY OF LOS ANGELES AND  
HACIENDA LA PUENTE UNIFIED SCHOOL DISTRICT  
FOR ADULT EDUCATION IN LOS ANGELES COUNTY SHERIFF'S FACILITIES

IN WITNESS WHEREOF, Hacienda La Puente Unified School District has executed this Amendment, or caused it to be duly executed, and the County of Los Angeles, by order of its Board of Supervisors, has caused this Modification Number Two to be executed on its behalf by the Chair of said Board and attested by the Executive Officer-Clerk of the Board of Supervisors thereof.



ATTEST:  
SACHI HAMAI  
Executive Officer-Clerk  
of the Board of Supervisors

By: Lachelle Smitherman  
Deputy

**ADOPTED**  
BOARD OF SUPERVISORS  
COUNTY OF LOS ANGELES

38 AUG 3 2010

Sachi Hamai  
SACHI A. HAMAI  
EXECUTIVE OFFICER-CLERK

APPROVED AS TO FORM:  
ANDREA SHERIDAN ORDIN  
COUNTY COUNSEL

By: Michele Jackson  
Michele Jackson  
Deputy County Counsel

COUNTY OF LOS ANGELES

By: Glenn Thoburn  
Chair, Board of Supervisors

I hereby certify that pursuant to  
Section 25109 of the Government Code,  
delivery of this document has been made.

SACHI A. HAMAI  
Executive Officer  
Clerk of the Board of Supervisors

By: Lachelle Smitherman  
Deputy

HACIENDA LA PUENTE UNIFIED  
SCHOOL DISTRICT

By: Gary Z. Matsumoto  
for Superintendent  
Date: 7/29/10

APPROVED AS TO FORM

By: [Signature]  
Counsel for District

64794

Supplement No. 1